

REMARKS

Claims 15-32 are pending in this application. By this Amendment, claims 15-30 and 32 are amended.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments:

(a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration as the amendments amplify issues previously discussed throughout prosecution; (c) satisfy a requirement of form asserted in the previous Office Action; (d) do not present any additional claims; and (e) place the application in better form for appeal, should an appeal be necessary. Entry of the amendments is thus respectfully requested.

The courtesies extended to Applicant's representative by the Examiners at the interview held September 1, 2010 are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below and constitute Applicant's record of the interview.

Claims 15-18, 23-26 and 31 are rejected under 35 U.S.C. §103(a) over U.S. 5,929,594 to Nonobe et al. ("Nonobe") in view of U.S. 6,214,484 to Hauer, and claims 19-22, 27-30 and 32 are rejected under 35 U.S.C. §103(a) over Nonobe in view of Hauer and EP 1,220,413 to Ohkubo et al. ("Ohkubo"). The rejections are respectfully traversed.

The combination of references fails to disclose or suggest a control portion that is programmed to change the amount of electric power consumed by the load portion to increase consumption to remove imbalance between charge and discharge of the electric power storage device in the system by reducing the difference between the supply electric power set value indicating an amount of electric power which needs to be supplied from the electric power storage device and the actual supply electric power value indicating an amount of electric

power which is actually supplied from the electric power storage device, as recited in claim

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For the reasons discussed in the Amendment filed March 10, 2010 and as admitted on page 3 of the Office Action, the combination of Nonobe and Ohkubo fails to disclose or suggest the above features recited in independent claim 15. Hauer fails to overcome the deficiencies of Nonobe and Ohkubo.

In particular, the Examiner relies on Hauer at col. 2, line 34-col. 3, line 2. However, Hauer only discusses increasing/decreasing the output of the fuel cell 2 in order to maintain the charge of the energy reservoir 3 within a certain range. Hauer does not discuss changing the drive control 8 or the motor 9 (alleged load portion) when the output of the fuel cell 2 is changed, or changing the amount of electric power consumed by the load portion as recited in claim 15. Hauer also fails to discuss the supply electric power set value and the actual supply electric power value of claim 15. Hauer thus also fails to disclose or suggest changing the amount of electric power consumed by the load portion to increase consumption to remove imbalance between charge and discharge of the electric power storage device in the system by reducing the difference between the supply electric power set value and the actual supply electric power value, as recited in claim 15. Therefore, the combination of Nonobe, Hauer and Ohkubo is missing a feature, and that feature would not otherwise have been obvious.

During the personal interview, the Examiners were of the opinion that when Hauer's fuel cell 2 is turned on or shut down (shut down being discussed at col. 2, line 62), then the amount of electric power consumed by the load portion changes in order to increase or decrease consumption. For example, the Examiners were of the opinion that when you switch from two power sources (the energy reservoir 3 and the fuel cell 2) to one power source (only the energy reservoir 3 because the fuel cell 2 is shut down), then the amount of electric power consumed by the drive control 8 and motor 9 changes in order to decrease

consumption because one of the power sources has been removed. Although Hauer's col. 2, lines 59-64 do not explicitly discuss the drive control 8 or the motor 9, the Examiners were of the opinion that Hauer "as a whole" (without providing a specific citation) discloses that the amount of electric power consumed by the drive control 8 and the motor 9 changes when the fuel cell 2 is shut down. The Examiners' analysis is traversed for several reasons, which are discussed in turn.

(1) Hauer fails to provide any discussion about changing the amount of electric power consumed by the drive control 8 or the motor 9. Hauer only discusses charging the energy reservoir 3. The Examiners' opinion that Hauer discloses or suggests changing the amount of electric power consumed by the drive control 8 and motor 9 in order to decrease (or increase) consumption is not supported.

(2) Hauer does not disclose or suggest automatically changing the amount of electric power consumed by the drive control 8 and the motor 9 when the fuel cell 2 is shut down. The Examiners have not set forth any evidence to support the position that the amount of electric power consumed by Hauer's drive control 8 and motor 9 changes. It is possible for the energy reservoir 3 by itself to supply electric power such that the power consumed by the drive control 8 and the motor 9 does not change.

(3) Regardless of the above, Hauer fails to disclose or suggest changing the amount of electric power consumed by the load portion to increase consumption to remove imbalance between charge and discharge of the electric power storage device in the system by reducing the difference between the supply electric power set value and the actual supply electric power value, as recited in claim 15. Hauer fails to provide any discussion about the supply electric power set value and the actual supply electric power value. It is unreasonable to extrapolate from Hauer's turning on or shutting down the fuel cell 2 the above underlined features of claim 15.

Therefore, even if Hauer is combined with Nonobe and Ohkubo, considering the Examiners' opinion set forth in the Office Action and the personal interview, the combination of references is missing a feature and that feature would not otherwise have been obvious.

* * * *

As should be obvious, the combination of references fails to disclose or suggest all of the features of independent claims 19, 23, 27, 31 and 32 for reasons similar to independent claim 15. The dependent claims are allowable based on their dependence from one of the independent claims and for the additional features that they recite.

On pages 21-23 of the Office Action, the Examiner asserts that various phrases in the claims were not given patentable weight because they are allegedly directed to functional limitations. As discussed during the personal interview, the claims have been amended in order to overcome this assertion. All of the features recited in the claims must be given patentable weight.

It is respectfully requested that the rejections be withdrawn.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Date: September 13, 2010

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